

FILED

MAY 23 2017

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

Clerk, U S Courts
District Of Montana
Great Falls Division

UNITED STATES OF AMERICA,

CR-12-76-GF-BMM

Plaintiff,

vs.

ORDER

BEAVER FRANK APPEL,

Defendant.

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on May 3, 2017. (Doc. 60.) The Court reviews de novo findings and recommendations to which a party objects. 28 U.S.C. § 636(b)(1). Victor Fourstar, Jr., a stated third party representative for Defendant Appel, has filed two documents with this Court. The first document (Doc. 61), is labeled as a "Notice of Appeal from April 24, 2017 Revocation Hearing Disposition" and "Appellant's Duty to Order Record and Transcripts on Appeal." The second document notifies the Court of Victor Fourstar, Jr.'s change of address. (Doc. 62.) The Court interprets Doc. 61, as an objection to Judge Johnston's

Findings and Recommendations and reviews those Findings and Recommendations de novo.

Judge Johnston conducted a revocation hearing on April 24, 2017. (Doc. 59.) Appel admitted that he violated the conditions of his supervised release by failing to report to his probation officer as directed, lying to his probation officer, failing to notify his probation officer of a change in his address, and failing to participate in urine testing. (Doc. 60 at 2-3.) Judge Johnston found that Appel's violations proved serious and warranted revocation of Appel's supervised release. *Id.* Judge Johnston recommended that Appel be placed in custody for six months, followed by fifty months of supervised release to follow. *Id.* at 4.

Appel appears to object to Judge Johnston's Findings and Recommendations through his third party representative, Victor Fourstar, Jr. (Doc. 61.) The document possesses, however, no argument that the Court can examine. *Id.*

The Court agrees with Judge Johnston's Findings and Recommendations. Appel's violations of his conditions represent a serious breach of the Court's trust. The Court has once before revoked Appel's supervised release on the basis of his continued methamphetamine use. (Doc. 45.) The Court finds it troubling that Appel has admitted to a failure to submit to urine testing given this history. Appel's admitted violations of lying to his probation officer, failing to report to his probation officer, and failing to report a change in address to his probation officer

also demonstrate that Appel has not given the supervised release program adequate respect and attention.

A sentence of six months custody, followed by fifty months of supervised release represents a sufficient, but not greater than necessary, sentence.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 60), is ADOPTED IN FULL.

IT IS FURTHER ORDERED that Defendant Beaver Frank Appel be sentenced to six months custody, followed by 50 months of supervised release. The conditions previously imposed shall be continued.

DATED this 22nd day of May, 2017.

A handwritten signature in cursive script, reading "Brian Morris". The signature is written in dark ink and is positioned above a horizontal line.

Brian Morris
United States District Court Judge